

**REMARKS/ARGUMENTS**

**I. INTRODUCTION**

Claims 20-29 are pending in the present application. This Amendment/Response (“Amendment”) is filed to respond to the Office Action dated November 20, 2009. In the Office Action, the Examiner set forth the following objections and rejections related to the specification and claims:

A. the specification is objected to for failing to provide a proper antecedent basis for the claimed subject matter, such as, “*a first* first section”..., “*a second* first section,” “*a first* second section,” and “*a second* second section” in claim 27. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o);

B. claim 29 (previously 28/20) is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to adequately point out and distinctly claim subject matter which Applicant regards as the invention for reciting the limitation “the first and second first *sections*” (plural, emphasis) and claim 20 recites “*a first section*” (singular, emphasis);

C. claims 20-26 and 29 are rejected under 35 U.S.C. § 102(b) for anticipation based on U.S. Patent No. 2,134,020 to Anson (“Anson”);

D. claims 27 and 28 (previously 28/27) are rejected under 35 U.S.C. § 103(a) for obviousness based on Anson taken with or without U.S. Patent Pub. No. 2002/0162416 to Gemma (cited in the European Search Report);

E. claims 20 and 27, and claim 28 (previously 28/27) are rejected under 35 U.S.C. § 102(b) for anticipation based on Gemma;

F. claim 20 is rejected under 35 U.S.C. § 102(b) for anticipation based on U.S. Patent No. 5,207,713 to Park (“Park”);

G. claims 20-26 and 29 (previously 28/20) are provisionally rejected under the judicially created doctrine of obviousness-type double patenting based on claims 14-17, 24, and 27 of co-pending Application No. 10/727,306 (the “306 Application”); and

H. claims 27 and 28 (previously 28/27) are provisionally rejected under the judicially created doctrine of obviousness-type double patenting based on claims 18 and 19/18 of the 306 Application.

Applicant will demonstrate that the claims, as amended, overcome the objection and each of the bases of rejection advanced by the Examiner, thereby, placing in the present application in condition for allowance.

## II. LEGAL STANDARD

As stated in Section I, the Examiner has rejected claims 20-26 and 29 for anticipation under 35 U.S.C. § 102(b) based on Anson; claims 20, 27, and claim 28 for anticipation under 35 U.S.C. § 102(b) based on Gemma; and claim 20 for anticipation under 35 U.S.C. § 102(b) based on Park. The Examiner also rejected claims 27 and 28 for obviousness under 35 U.S.C. § 103(a) based on Anson taken with or without Gemma.

The standard for sustaining a rejection for anticipation is a single prior art reference must disclose each and every limitation of the claim. *See, e.g., Schering Corp. v. Geneva Pharma., Inc.*, 339 F.3d 1373, 1377 (Fed. Cir. 2003) (“[a] patent [claim] is invalid for anticipation if a single prior art reference discloses each and every limitation of the claimed invention”); *Trintec Industries, Inc. v. Top-USA Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002) (“[a] single prior art reference anticipates a patent claim if it expressly or inherently describes each and every limitation set forth in the patent claim.... Inherent anticipation requires that the missing descriptive material is ‘necessarily present,’ not merely probably or possibly present, in the prior art”); *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001) (“[t]o anticipate, every limitation of the claimed invention must be found in a single prior art reference, arranged as in a claim”); *Kloster Speedsteel AB v. Crucible, Inc.*, 794 F.2d 1565, 1571 (Fed. Cir. 1986) (“absent from the reference of any claimed element negates anticipation”). Neither Anson, Gemma, nor Park meets this standard.

The standard for sustaining a rejection for obviousness is different if the rejection is based on a single reference or multiple references. In general, to sustain an obviousness rejection based on a single reference or multiple references, the rejection must be based on

inquiries according to *Graham v. John Deere*, 383 U.S. 1, 17 (1966). The inquiries are (1) the scope and content of the prior art, (2) differences between the prior art and the claims at issue, and (3) the level or ordinary skill in the pertinent art. Based on these inquiries, the Examiner must establish a *prima facie* obviousness rejection based on one or more references, which can be rebutted by the applicant. In considering the prior art for the purpose of establishing an obviousness rejection, a *prima facie* case for obviousness is established when the teachings of the prior art would appear to suggest the claimed invention to a person of ordinary skill in the art, but is not established when the claimed subject matter is speculative (*See, In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993) (“The mere fact that a certain thing *may* result from a given date of circumstances is not sufficient [to establish inherency]...”)). If obviousness is based on a combination of references, there must be some teaching, suggestion, or motivation found for the combination. *Akamai Technologies, Inc. v. Cable & Wireless Internet Services, Inc.*, 344 F. 3d 1186, 1196 (Fed. Cir. 2003) (“When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation for combining these references.”). Applicants submit that these standards have not been met in rejecting the claims for obviousness based on Anson taken with or without Gemma.

### III. THE SPECIFICATION SUPPORTS CLAIM 27

The Examiner has objected to the specification for allegedly failing to provide a proper antecedent basis for claimed subject matter such as, “*a first first section*”..., “*a second first section*,” “*a first second section*,” and “*a second second section*” in claim 27. The Examiner in asserting this objection cites 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Applicant submits that the specification supports the claim language objected to by the Examiner at least at paragraphs [0021]-[0025]. The specification states the following at these paragraphs:

[0021] In FIG. 2, generally at 200, steering control 211 has two systems of the present invention associated with it. The first is shown at 202 and the second at 203. The first and second systems in FIG. 2, extend over a smaller arc of the steering control compared to the single system shown in FIG. 1.

[0022] The first system of the present invention at 202 includes first section 204 [first first section] that connects to steering control 211 and second section 205 [first second section] that extends outward from first section 204. First section 204 may be rigid, semi-rigid, or deformable, while second section 205 is deformable. If the first section is deformable, it may have memory.

[0023] Similarly, the second system of the present invention at 203 includes first section 207 [second first section] that connects to steering control 211 and second section 209 [second second section] that extends outward from first section 207. First section 207 may be rigid, semi-rigid, or deformable, while second section 209 is deformable. Again, if the first section is deformable, it may have memory.

[0024] In FIG. 2, system 202 is at or near the ten o'clock position and system 203 is shown at or near the two o'clock position. Although, the two systems have been described as being positioned at the ten and two o'clock locations, it is understood that they may be placed at other locations around the rim and there may be more than two systems and still be within the scope of the present invention.

[0025] Referring to FIGS. 1 and 2, first section 103 in FIG. 1, and first sections 204 and 207 in FIG. 2, may be formed integral with steering control 105 and 211, respectively....

As demonstrated in the quotation above, the specification at paragraphs [0021]-[0025] specify that there can be two systems associated with a steering wheel. Each of these systems would have a first section and a second section. Therefore, for purposes of claiming, in order to differentiate the two systems, it is necessary to refer to them as a "first first section" and a "first second section" that apply to the first system and a "second first section" and a "second second section" that apply to the second system. Accordingly, Applicant has traversed the Examiner's objection to the specification and request that it be withdrawn.

#### IV. CLAIM 28 IS A DEFINITE

The Examiner rejected claim 28/20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to adequately point out and distinctly claim subject matter which Applicant regards as the invention for reciting the features "the first and second first *sections*" (plural, emphasis) and claim 20 recites "a first *section*" (singular, emphasis). Herein, Applicant has

amended claim 28 to depend only from claim 27. As such, by deleting the multiple dependency, claim 28 overcomes the Examiner's basis of rejection.

Applicant has also added new claim 29 (previously 28/20) which recites that the "first section is deformable." There is no support for the Examiner to raise an indefiniteness rejection with regard to claim 29 since claim 29 depends only from claim 20.

Noting the foregoing, the Examiner should withdraw the indefiniteness rejection that has been applied to claim 28.

#### V. CLAIMS 20-26 AND 29 ARE NOVEL IN VIEW OF ANSON

The Examiner rejected claims 20-26 and 29 (previously 28/20) under 35 U.S.C. § 102(b) for anticipation based on Anson. The description of the Anson attachment on which the Examiner relies in rejecting these claims for anticipation has been expanded from previous rejections in the prosecution history of the present application. At present, the Examiner is relying on substantially all of page 1 and a small portion of page 2 of Anson to allegedly support his rejection. The following table shows the portions of pages 1 and 2 of Anson on which the Examiner relies.

<u>CLAIM</u>	<u>RELIANCE IN ANSON</u>
20	Page 1, Left Column, Line 6 -- Right Column, Line 53
21	Page 1, Right Column, Lines 50-53
22	Page 1, Left Column, Lines 1-43
23	No citation
24	Page 1, Right Column, Lines 50-53
25	No citation
26	No citation
29 (amended 28/20)	Page 2, Left Column, Lines 35-72

Given this broad citation to Anson by the Examiner shown in the table above, Applicant provides the following portions of Anson that he submits are germane in responding to the Examiner's rejection of claims 20-26 and 29. The general problem that is allegedly solved by Anson is the following:

I [Anson] have found that in the driving of an automobile and particular when driving for extended periods of time over long distances, the normal manner of holding and manipulating the steering wheel, wherein both driver's hands grasp the wheel and positions which require the driver's arms remain in a raised and more or less unnatural and uncomfortable position, considerable strain develops in the driver's hands, arms, shoulders and back particularly, and results in excess of fatigue...

To obviate these disadvantages, I have devised an attachment for steering wheel, which permits a driver to assume a completely comfortable and relaxed driving position, while at the same time, affords a means permitting the driver to at all times retain positive operating control of the steering wheel.

To this end, I have devised an attachment which comprises generally an auxiliary grip handle is attachable to a steering wheel and extends from the wheel so that it permits the driver to grasp the handle with one hand while that hand is resting in a completely relaxed position in his lap.... My new attachment is preferably construction of a rubber or similar composition material which is sufficiently resilient to be comparably gripped by the hand and sufficiently pliable to yield readily to pressure of contact with more or less solid structures, such as the body or legs of the driver, but which is characterized by sufficient rigidity to afford a positive means of control or manipulation of the wheel by the driver.

Therefore the general object of the invention is to provide an attachment for relieving strain resulting from the normal method of steering automobiles while driving long distances.

A principal object is to provide an improved flexible... steering grip... which will permit the driver to remove his hands from the wheel and allow them to be positioned in a comfortable and relaxed position while enabling adequate steering of the car to be had with one hand, leaving the other hand free for signaling purposes or for purposes of complete rest and relaxation.

\* \* \*

Referring to the drawing and Figs. 1 and 2 in particular, the steering attachment of this invention is shown attached in the normal driving position to a steering wheel 10. The attachment comprises a handgrip portion 11, which is

preferably of bulbular form and constructed of a flexible material such as rubber or a similar pliable composite material. [Emphasis added.]  
Anson, Page 1, Left Column, Line 6 -- Right Column, Line 53.

Applicant also would like to bring to the Examiner's attention to the following quotation from the Pages 1 and 2 that focuses on a proper understanding of the alleged invention of Anson:

The attachment comprises a hand grip portion 11, which is preferably of bulbular form.... Grip portion 11 normally extends downwardly from the wheel rim and is of suitable length to adapt same to extend to the region of the driver's lap so that it may be grasped by the driver's hand when his hand is resting in a normal comfortable position in his lap. Grip portion 11 is reduced in cross-sectional area at one end to form a neck 12. Neck 12...will have sufficient pliability...to be deflected from its normal pendant position without adversely affecting the measure of control of the steering wheel movements afforded by the positive operating movement of the attachment, while at the same time, neck 12 will retain sufficient rigidity to permit operating movements of hand grip 11 to be positively communicated to the steering wheel rim for effective control of its movements.

Anson, Page 1, Right Column, Line 49 – Page 2, Left Column, Line 18.

Of the claims of the present application rejected for anticipation based on Anson, claim 20 is an independent claim and claims 21-26 and 29 depend from claim 20. Claim 20, as amended, recites the following:

20. A fatigue relieving/preventing apparatus associated with a steering wheel for controlling a vehicle comprising:

a first section that connects to an upper one-half (1/2) of a peripheral portion of the steering wheel; and

a second section that connects to, and extends from, the first section at the peripheral portion of the steering wheel, the second section extends from the first section outward at an angle to a plane across a face to the steering wheel, the second section for providing resting support for at least a portion of a vehicular operator's body when pressure from the portion of the vehicular operator's body on the second section is less than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for

deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. [Emphasis added.]

As shown in the quotation above, the apparatus of the present invention is disposed on the upper one-half (1/2) of the steering wheel, which is supported by Figures 1 and 2 of the present application, and the "second section" provides resting support for the vehicle operator's arm(s), wrist(s), etc.

Figure 8 of Anson shows the normal position for the steering wheel attachment. This is a pendant position at the bottom of the steering wheel. Anson clearly states in the quotation above that the problem to be allegedly solved is eliminating the problems associated with steering the vehicle with the driver's hands at the normal 10:00 and 2:00 positions (Anson, Page 1, Left Column, Lines 6-18 and Lines 44-47). This solution is allegedly accomplished by moving steering to the bottom of steering wheel using the attachment (Page 1, Right Column, Line 46 - Page 2, Left Column, Line 4). Claim 20, as amended, recites the apparatus of the present invention is disposed on the upper one-half (1/2) of the steering wheel periphery. This provides a structural difference between Anson and the present invention.

According to Anson, the attachment is not usable when placed at the upper one-half (1/2) of the periphery of the steering wheel. This is supported by Anson at Page 2, Right Column, lines 68-72, where it states:

Similarly, the attachment may be rotated about the steering wheel rim from its normal pendant position to a position within the periphery of the steering wheel when it becomes desirable to dispense with its use in operating the wheel.

According to the quotation immediately above, a steering wheel attachment of Anson will be moved to the upper one-half (1/2) of the steering wheel so that it will extend within the periphery when it is no longer desirable to be used for steering the vehicle. Accordingly, the steering wheel attachment of Anson is inoperable when located at the upper one-half (1/2) of the steering wheel.

Applicant also submits that Anson does not provide resting support for the vehicle driver's hands as asserted by the Examiner. More specifically, the bulbular-formed grip portion 11 does not provide "resting support" for the driver's body; that is provided by the driver's lap.

Applicant's position in this regard is supported at least in two sections of Anson. The first is found at Page 1, Right Column, Line 49 -- Page 2, Line 18, which was previously quoted in this Amendment at Page 9. The second is at Page 2, Right Column, Lines 49-56, which states:

From the foregoing it will be evident that by means of any one of the described modifications of my new steering wheel attachment, the ordinary steering wheel movements may be completely controlled with one hand by the driver while that hand is in a comfortably supported position in the driver's lap, the other hand being free for purposes of signaling or repose. [Emphasis added.]

The "resting support" issue will be addressed in greater detail in Section X of this Amendment.

Noting the foregoing, Anson does not support the Examiner's basis for rejecting claim 20 and this rejection should be withdrawn.

Claims 21-26 and 29 depend from claim 20. As such, each of these claims adds features to claim 20. Therefore, since claim 20 is not anticipated by Anson, then claims 21-26 and 29 are not anticipated by Anson for at least the same reasons. As such, Applicant has traversed the Examiner's anticipation rejection based on Anson as applied to claims 20-26 and 29. Applicant requests that this rejection be withdrawn.

## **VI. CLAIM 27 AND 28 ARE NONOBVIOUS IN VIEW OF ANSON COMBINED WITH OR WITHOUT GEMMA**

The Examiner rejected claims 27 and 28 under 35 U.S.C. § 103(a) for obviousness based on Anson taken with or without Gemma. Claim 27 is an independent claim and claim 28 depends from claim 27. As amended, claim 27 states:

27. (Currently Amended) A fatigue relieving/preventing apparatus associated with a steering wheel for controlling a vehicle comprising:

at least a first first section and a second first section that connect to an upper one-half (1/2) of a peripheral portion of the steering wheel; and

at least a first second section and a second second section that connect to, and extends from the first and second first sections, respectively, with the first and second second sections extending from the respective first and second first sections outward at an angle to a plane across a face to the steering wheel, the first and second second sections each providing resting support for at least a portion of

a vehicular operator's body when pressure from the portion of the vehicular operator's body on the first or second second section is less than the pressure for deforming the first or second second section out of interference with the vehicular operator's ability to operate the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the first or second second section is equal to or greater than the pressure for deforming the first or second second section out of interference with the vehicular operator's ability to operate the steering wheel.

With regard to the obviousness rejection based on Anson alone, the Examiner states (Office Action, page 5, paragraph 8):

Anson teaches the invention substantially as claimed. However, Anson teaches one first deformable section 13 and one deformable second section 11.

It would have been obvious to one having ordinary skill in the art to change Anson's one deformable first section to at least two deformable first sections (*i.e.*, the first first section and the second first section) and Anson's one second section to at least two seconds sections (*i.e.*, the first second section and the second second section) in order to relieve fatigue to the vehicle operator as taught or suggested by common knowledge in the art. The number of deformable first sections and seconds sections would have been a matter of choice in design since the claimed structures and the function they perform are the same as the prior art. [Citations omitted.]

Applicant submits the Examiner's conjecture with regard to there being a plurality of steering wheel attachments in Anson (a design choice) is misplaced given the specific disclosure of Anson.

Anson provides no teaching or suggestion of there being other than one steering wheel attachment associated with a steering wheel. Moreover, there are specific statements in Anson that plainly indicate the intent of the invention is to have just one. At Page 1, Left Column, Line 48 to Page 1, Right Column, Line 4, it states:

A principal object is to provide an improved flexible but semi-rigid, steering grip which can readily be attached to, or removed from, any steering wheel... which will permit the driver to remove his hands from the wheel and allow them to be positioned in a comfortable and relaxed position while enabling

adequate steering of the car to be had with one hand, leaving the other hand free for signaling purposes and for purposes of complete rest and relaxation.

Similarly, in Anson at Page 2, Right Column, Lines 49-56, it states:

From the foregoing it will be evident that by means of any one of the described modifications of my new steering wheel attachment, the ordinary steering wheel movements may be completely controlled with one hand by the driver while that hand is in a comfortably supported position in the driver's lap, the other hand being free for purposes of signaling or repose.

According to the above quotations from Anson, there is no reasonable basis for the Examiner to advance that there would be more than one steering wheel attachment connected to the steering wheel. Further, by the Anson steering wheel attachment being pliable, if there were multiple steering wheel attachments (one for each hand), it could adversely affect the ability to control the car. For example, there could be the entanglement of the attachments in trying to steer the vehicle with two very flexible attachments. The Examiner has not pointed to any statements in Anson to support his position that there would be more than one Anson steering wheel attachment only support that clearly teaches away.

In rejecting claim 27 under 35 U.S.C. §103(a) for obviousness based on Anson in view of Gemma, the Examiner states the following:

Alternatively, Gemma teaches at least two deformable first sections (*i.e.*, the first first section and the second first section connected to the rim/peripheral portion 14 of the steering wheel 12, see Appendix 2 ... and Gemma, ¶¶ 24-26) and at least two second sections (*i.e.*, the first second section 16, 26 and the second second section 16, 26 squeezed by the vehicle operator) in order to relieve fatigue to the vehicle operator. Gemma, Summary of the Invention.

It would have been obvious to one having ordinary skill in the art to change Anson's one first section to at least two first sections and Anson's one second section to at least two seconds sections in order to relieve fatigue to the vehicle operator as taught or suggested by Gemma. The modification of Anson's apparatus by changing the number of the first and second sections as taught or suggested by Gemma would not have been uniquely challenging to a person of ordinary skill in the art because it is no more than "a simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement." [Citation omitted.] [Emphasis added.]

Applicant first asserts that Gemma is improperly combined with Anson given that Anson is directed to fatigue relief (Anson, Page 1, Left Column, lines 6-18), while Gemma is directed to stress relief (Gemma, paragraph [0007]). There is such a substantial difference between the intent of Anson and Gemma that it would be improper for the Examiner to combine the teachings of Anson and Gemma.

In order for two or more references to be combined for the purposes of an obviousness rejection there must be some teaching, suggestion or motivation within for such a combination. Applicant submits there is no teaching, suggestion or motivation for combining Gemma with Anson.

In Anson at Page 1, Right Column, lines 5-10, it states:

In practice, it is found that an auxiliary grip attachment constructed of a rubber composition, which has a hand grip portion in the form of a hollow bulb, shaped to fit the hand, is particularly adapted to comfortable and non-fatiguing gripping by the hand of the driver. [Emphasis added.]

As demonstrated in the quotation above, the structure of the Anson attachment is held in a non-fatiguing manner.<sup>1</sup> Gemma, on the other hand, states the following at paragraph [0027]:

Regardless of the type of stress relief steering wheel cover that is employed, the use remains the same. While driving and experiencing stress, the driver would place his or her hands around the cover 10 and squeeze tightly. It would be found that this type of release of energy can reduce the level of stress, along with the emotional response associated therewith. [Emphasis added.]

The two quotations immediately above demonstrate that Gemma teaches away from Anson. In Anson, the grip attachment is held in a non-fatiguing manner, which is not “squeezing” the grip attachment to relieve stress. There is no teaching or suggestion in Anson that the grip attachment relieves stress. The two sacs at 10:00 and 2:00 on the Gemma steering wheel cover and Gemma are meant to be squeezed tightly for the purpose of stress relief. There is no teaching or suggestion in Gemma that the stress relief provides any type of fatigue relief.

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<sup>1</sup> Although Applicant has cited to Anson regarding the driver holding the grip attachment in a non-fatiguing manner, Applicant still contends that the grip attachment as held by the hand does not provide resting support. As clearly spelled out in Anson, resting support is provided by the driver's lap.

Although the Examiner states Gemma provides “fatigue relief” in the obviousness rejection support, there is nothing in Gemma to support this position by the Examiner.

As Applicant demonstrated in Section V, the clear and only intent in Anson is to have a single grip attachment and not multiple grip attachments, *i.e.*, one for each hand. The pliability of the Anson attachment is not conducive to having more than one grip attachment as described above. One of ordinary skill in the art reading Anson and Gemma would recognize these differences and would not find any teaching, suggestion or motivation to support the Examiner’s contention that there would be multiple Anson grip attachments according to Gemma.

Noting the above, the Examiner has improperly combined Anson with Gemma given (i) the teachings and suggestions in Anson and Gemma are completely different in that Anson is directed to fatigue relief when the grip attached is used while Gemma is directed to stress relief caused by squeezing the sacs of the steering wheel cover tightly and (ii) there is no teaching, suggestion, or motivation in Anson that there should be more than one grip attachment per Gemma given the pliability of the material used for the Anson grip attachment. As such, Applicant has traversed the Examiner’s rejections of claim 27 for obviousness based on Anson alone or Anson in view of Gemma.

Claim 28 depends from claim 27 and, as such, add features to claim 27. Therefore, since claim 27 is not rendered obvious by Anson alone or Anson in view of Gemma, then claim 28 also is not obvious in view of these references taken alone or in combination for at least the same reasons. As such, Applicant has traversed the Examiner’s obviousness rejections applied to claims 27 and 28. Applicant, therefore, requests that these obviousness rejections be withdrawn.

## VII. CLAIMS 20, 27, AND 28 ARE NOVEL IN VIEW OF GEMMA

The Examiner rejected claims 20, 27, and 28 under 35 U.S.C. § 102(b) for anticipation based on Gemma. Of these claims, claims 20 and 27 are independent claims, and claim 28 depends from claim 27. In rejecting claims 20 and 27, the Examiner contends that Gemma teaches a fatigue relieving/preventing apparatus. Applicant submits that the Examiner’s contention that Gemma teaches a fatigue relieving/preventing apparatus is misplaced.

As demonstrated in Section VI of this Amendment, Gemma is directed to stress relief. The sacs of the steering wheel cover are held by the driver and tightly squeezed when necessary to relieve stress. (See paragraph [0008]). When it is not necessary to relieve stress, the sacs are not held and squeezed. Whether held or not, the sacs of the steering wheel cover do not provide fatigue relief as the Examiner contends. The Examiner has failed to support the anticipation rejection based on Gemma with any citations to Gemma where it states this reference provides fatigue relief.

Claims 20 and 27 with respect to the second section states:

a second section that connects to, and extends from, the first section at the peripheral portion of the steering wheel, the second section extends from the first section outward at an angle to a plane across a face to the steering wheel, the second section for providing resting support for at least a portion of a vehicular operator's body when pressure from the portion of the vehicular operator's body on the second section is less than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. [Emphasis added.]

With respect to teaching the second section of the claims 20 and 27, the Examiner cites paragraphs [0008], [0024], and [0026] of Gemma. These three paragraphs state:

[0008] To attain this, the present invention essentially comprises a stress relief steering wheel cover attached to the rim of a steering wheel. The covers are composed of sac assemblies mounted onto the steering wheel. The sac assemblies are comprised of outer and inner layers with particulate material situated in between. The outer layer is made out of a soft cushion material. The covers are generally "C" shaped, having a narrow opening along one side to allow the cover to be fitted around the steering wheel. A strip of hook and loop fasteners is attached at each end of the opening and serves to fasten the cover around the steering wheel. Alternatively, the stress relief covers may be incorporated directly into the steering wheel. While driving and experiencing stress, the driver would place his or her hands around the covers and squeeze tightly in order to reduce his or her stress level.

[0024] The covers 10 are composed of sac assemblies mounted onto the steering wheel 12. The sac assemblies are comprised of outer and inner layers 16, 18, respectively. The outer layer 16 extends around the entire cover 10 and secures the contents of the inner layer 18 therein. The outer layer 16 defines a compartment housing particulate material 20, namely seeds, pebbles, silicon or the equivalent which are often used in other stress relief devices. The outer layer 16 is made out of a soft flexible material, such as rubber. Such a material would provide a driver with a soft gripping area, conducive to the relief of stress while driving.

[0026] In an alternate embodiment, the stress relief covers 10 may be incorporated directly into the steering wheel 12. This may be accomplished by incorporating the particulate material 20 directly between the outer layer 16 and the rim 14 of the wheel 12 or spokes 24 contained within the rim 14 of the steering wheel 12, as seen in FIG. 2 or FIG. 4. In this embodiment, bulges 26 situated strategically around the rim 14 of the wheel or the entire spoke 24 comprise the layers described above. When stressed, a driver would place his or her hands around one or more of the spokes 24 or bulges 26 and squeeze in order to relieve stress.

A review of paragraphs [0008], [0024], and [0026] relied on by the Examiner, however, demonstrates Gemma does not teach or suggest at least the following of claims 20 and 27:

the second section for providing resting support for at least a portion of a vehicular operator's body when pressure from the portion of the vehicular operator's body on the second section is less than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. [Emphasis added.]

Nothing in Gemma provides for the deforming of the sacs out of interference with the operation of the steering wheel, only that the sacs are squeezed to relieve stress. Therefore, Gemma does not teach or suggest fatigue relief as the Examiner contends, nor does Gemma teach or suggest the sacs will deform out of interference with the operation of the steering wheel. As such, Applicant has demonstrated that Gemma does not anticipate claims 20 and 27.

Claim 28 depends from claim 27. As such, claim 28 adds features to claim 27.

Therefore, since claim 27 is not anticipated by Gemma, then claim 28 is not anticipated by

Gemma for at least the same reasons. Applicant has traversed the Examiner's anticipated rejection based on Gemma as applied to claims 20, 27, and 28. Applicant requests that this anticipation rejection be withdrawn.

### VIII. CLAIM 20 IS NOVEL IN VIEW OF PARK

The Examiner rejected claim 20 under 35 U.S.C. § 102(b) for anticipation based on Park. Park is directed to a steering wheel safety cover that to a limited degree prevents injuries to the driver if the driver impacts the steering wheel. The safety cover has an inflatable cavity on the side of the steering wheel facing the driver. The cavity may be filled with air, a liquid, or a solid elastic material. The safety cover wraps around the outer circumference of the steering wheel. To support the Examiner's anticipation rejection, he cites claims 1-15 of Park as anticipating the second section of claim 20. Claims 1-15 state:

1. A safety cover adapted for use with a steering wheel having a generally circular handgrip portion, comprising:
  - (a) an annular impact reducing portion (20) adapted for concentric arrangement about said handgrip portion; and
  - (b) a mounting portion (60) operable to mount said impact reducing portion to said handgrip portion;
  - (c) said impact reducing portion including a partition wall portion (21) integral with said mounting portion, said partition wall portion containing a chamber (22) for receiving an impact reducing material (24).
2. A safety cover as defined in claim 1, wherein said impact reducing material is air.
3. A safety cover as defined in claim 1, wherein said impact reducing material is a liquid.
4. A safety cover as defined in claim 1, wherein said impact reducing material is a solid elastic material.
5. A safety cover as defined in claim 1, wherein said mounting portion is annular and contains an annular groove for receiving said steering wheel handgrip portion; and further including mounting wire means (25) imbedded within the edges of, and extending parallel with, said groove.
6. A safety cover as defined in claim 1, and further wherein said mounting portion is integral with said impact reducing portion and includes an

annular protruding portion that extends within a corresponding recess (1a) contained in said steering wheel.

7. A safety cover as defined in claim 6, and further including an outer leather sheet cover layer arranged concentrically about, and adhesively bonded to, said impact reducing portion, and string means extending around said steering wheel for connecting together the edges of said leather sheet cover layer, thereby to retain said safety cover on the steering wheel.

8. A safety cover as defined in claim 1, wherein said impact reducing partition wall portion includes;

- (1) an annular air tube (21b);
- (2) a layer of reinforcing cloth (30) arranged around the circumference of said air tube; and
- (3) a layer of leather (41) arranged around the circumference of said cloth layer.

9. A safety cover as defined in claim 8, and further wherein said leather layer is adhesively bonded to said cloth layer and includes an end portion connected by a line of sewing (42) with a mid portion thereof.

10. A safety cover as defined in claim 8, wherein said layer of leather is sewn at one edge by a line of sewing (42) with a wing portion (20) of said air tube, said leather layer extending circumferentially around said air tube and partially around the circumference of said steering wheel handgrip portion, and further including a string (28) mounted in the other edge portion of said leather layer, the ends of said string being exposed.

11. A safety cover as defined in claim 8, and further wherein circumferentially spaced portions of said air tube are bonded together by high frequency energy to define a plurality of independent air pockets 22b.

12. A safety cover as defined in claim 1, wherein said mounting portion includes:

- (1) a layer of reinforcing cloth (30) extending concentrically about said partition wall portion;
- (2) a layer of leather (41) wrapped around said partition wall portion and including a hem portion extending partially around the steering wheel handgrip a hem portion extending partially around the steering wheel handgrip portion, thereby to define said mounting portion; and
- (3) a string element (28) mounted on the free edge of said leather layer hem portion for tying said leather layer to the steering wheel.

13. A safety cover as defined in claim 1, and further including means for inflating said chamber with air, including: (1) an air pump (52); and (2) an air hose (51) connecting said air pump with said air tube.

14. A safety cover as defined in claim 13, wherein said inflating means further includes an air valve (58) connected with said air tube, and an injecting needle (59) connecting said air hose with said air tube via said air valve.

15. A safety cover as defined in claim 1, wherein said partition wall contains a plurality of air holes (23).

A review of claims 1-15 demonstrates Park does not teach or suggest at least the following of claim 20 other present application:

the second section for providing resting support for at least a portion of a vehicular operator's body when pressure from the portion of the vehicular operator's body on the second section is less than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. [Emphasis added.]

Nothing in Park provides for the deforming of the sacs out of interference with the operation of the steering wheel. All that is provided is an inflatable cavity that will give the driver some level of impact protection. Further, Park does not teach or suggest fatigue relief as the Examiner contends. As such, Applicant has demonstrated that Park does not anticipate claim 20.

Applicant has traversed the Examiner's anticipation rejection based on Park as applied to claim 20. Applicant requests that this anticipation rejection be withdrawn respect to claim 20.

## **IX. THE OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTIONS SHOULD BE WITHDRAWN**

### **A. Claims 20-26 and 29**

The Examiner has provisionally rejected claims 20-26 and 29 under the judicially created doctrine of obviousness-type double patenting in view of claims of 14-17, 24, and 27 of co-pending Application No. 10/727,306 ("306 Application"). In the 306 Application, the Examiner

rejected the claims based on the judicially created doctrine of obviousness-type double patenting in view of the claims of the present application. In response to that rejection, Applicant filed a terminal disclaimer in the 306 Application that has been accepted by the Examiner and the obviousness-type rejection was withdrawn in the 306 Application.

The acceptance by the Examiner of the terminal disclaimer in the 306 Application will mean that the patent terms of the present application and 306 Application have already been tied to each other. Accordingly, Applicant submits that in light of the terminal disclaimer being filed and accepted with respect to the 306 Application, it is improper to file a terminal disclaimer in the present application as suggested by the Examiner. Accordingly, Applicant requests that this rejection be withdrawn with respect to claims 20-26 and 29.

#### B. **Claims 27 and 28**

The Examiner has provisionally rejected claims 27 and 28 under the judicially created doctrine of obviousness-type double patenting in view of claims of 18 and 19/18 of the co-pending 306 Application. In the 306 Application, the Examiner rejected the claims based on the judicially created doctrine of obviousness-type double patenting in view of the claims of the present application. In response to that rejection, Applicant filed a terminal disclaimer in the 306 Application that has been accepted by the Examiner and the obviousness-type rejection was withdrawn in the 306 Application.

The acceptance by the Examiner of the terminal disclaimer in the 306 Application will mean that the patent terms of the present application and 306 Application have already been tied to each other. Accordingly, Applicant submits that in light of the terminal disclaimer being filed and accepted with respect to the 306 Application, it is improper to file a terminal disclaimer in the present application as suggested by the Examiner. Accordingly, Applicant requests that this rejection be withdrawn respect to claims 27 and 28.

#### X. **ANSON, GEMMA, AND PARK DO NOT PROVIDE RESTING SUPPORT**

At numbered paragraph 14 on page 11 of the Office Action, the Examiner seeks to refute Applicant's position the steering wheel attachment of Anson does not provide resting support.

Applicant submits that neither Anson nor Gemma and Park teach, suggest, or render obvious resting support according to the claims of the present invention.

The Examiner has rejected claims 20-26 and 29 for anticipation under 35 U.S.C. § 102(b) based on Anson, claims 20 and 27, and claim 28 for anticipation under 35 U.S.C. § 102(b) based on Gemma, and claims 20 for anticipation under 35 U.S.C. § 102(b) based on Park. The Examiner also rejected claims 27 and 28 for obviousness under 35 U.S.C. § 103(a) based on Anson taken with or without Gemma. In each of these grounds of rejection, the Examiner has advanced Anson, Gemma, and Park either anticipate or render obvious the feature of “resting support” being provided by the present invention. Applicant, however, submits that this is not true, and at least with respect to Anson was recognized as a distinguishing feature between the claims of present invention and Anson by the Board of Patent Appeals and Interferences.

In the Office Action, the Examiner at Page 12 acknowledges that functional features of an apparatus claim can distinguish the claim from prior art cited by the Examiner. With regard to Anson, the Examiner argues that “resting support” is an inherent feature of the Anson attachment. This position of the Examiner is predicated on the Anson attachment being bulbular in shape and being gripped by the driver’s hand. The Examiner attempts to support the contention Anson provides a “resting support” by quoting a definition of the term “rest” from the *Merriam-Webster’s Collegiate Dictionary*. Then, the Examiner makes the unnatural extension of this by stating when the driver places his hand on the bulbular portion, the driver rests his hand on that portion. Next, the Examiner makes a conclusory statement unsupported by Anson that “[s]imply put, Anson’s second section inherently provides resting support for at least the hand, *i.e.*, the portion of the vehicle upper’s body as claimed.” The Examiner takes his position despite evidence in Anson to the contrary.

Anson at Page 1, Right Column, Line 53 -- Page 2, Left Column, Line 4 states:

Grip portion 11 normally extends downwardly from the wheel rim and is of suitable length to adapt same to extend to the region of the driver’s lap so that it may be grasped by the driver’s hand when his hand is resting in a normal comfortable position in his lap.

In unequivocal language, Anson specifically describes “resting support” being provided by the driver’s lap and not by the Anson attachment. The Examiner’s parsing of the words “resting support” to first describe the word “rest” based on a dictionary definition and then attempt in a conclusory manner to expand the definition of “rest” to “resting support” is clearly improper. This is especially inappropriate given Anson describes “resting support” with regard to the Anson attachment within the four corners of Anson.

The fact the Anson attachment did not provide “resting support” was recognized by the Board of Patent Appeals and Interferences in the Oral Hearing Transcript at pages 14-16.<sup>2</sup> The Examiner appears to not recognize this position of the Board.

Further, the grasping of the Anson attachment for purposes of control of the vehicle would require that the driver squeeze and hold the bulbular section 11. By grabbing and holding the bulbular section, there would not be any inherent resting support provided to the driver. Accordingly, this is another basis by which it would be understood that Anson does not provide resting support as the Examiner contends.

Section VII of this Amendment describes the alleged invention of Gemma as a “C” shaped steering wheel cover with stress relief sacs that are squeezed by the driver for stress relief during vehicle operation. When the sacs are squeezed, they are not providing fatigue relief; and when the sacs are not in use, there is nothing to indicate within the four corners of Gemma that they provide any type of fatigue relief. Moreover, there is nothing inherent about the sacs that would indicate they would provide fatigue relief and be deformable out of interference with the operation of the steering wheel as claimed in the present application.

Section VIII of this Amendment describes the alleged invention of Park as a steering wheel cover intended to reduce the effects of impacting the steering wheel. To the extent the steering wheel cover of Park is grasped by the driver, it may have some softness based on the cavity within the steering wheel cover being filled with air, a liquid, or a solid elastic material. There is nothing within the four corners of Park that would be inherent to lead one skilled in the art to understand the steering wheel cover of Park would provide “resting support” for the driver. To the extent the driver is grasping the steering wheel cover of Park, he/she would have their

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<sup>2</sup> Attachment A.

hands around the steering wheel cover squeezing it, which would not be resting support according to the present invention. Further, there is nothing in Park to support that it would be deformable out of interference with the operation of the vehicle as claimed in the present application.

Noting the above, Applicant has demonstrated that neither Anson, Gemma, or Park teach, suggest, or render obvious the “resting support” feature of the claims of the present invention. Accordingly, Applicant has refuted the Examiner’s contention “resting support” is an inherent feature of Anson, Gemma, or Park.

## XI. CONCLUSION

Claims 20-29 are pending in the present application. Herein, Applicant has traversed the Examiner’s objection to this specification, and the rejection of claim 29 for indefiniteness under 35 U.S.C. § 112, second paragraph, the rejection of claims 20-26 and 29 for anticipation under 35 U.S.C. § 102(b) based on Anson, the rejection of claims 27 and 28 for obviousness under 35 U.S.C. § 103(a) based on Anson taken with or without Gemma, the rejection of claims 20 and 27, and claim 28 for anticipation under 35 U.S.C. § 102(b) based Gemma, the rejection of claim 20 for anticipation under 35 U.S.C. § 102(b) based on Park, the rejection of claims 20-26 and 29 under the judicially created doctrine of obviousness-type double patenting based on claims 14-17, 24, and 27 of the co-pending 306 Application, and the rejection of claims 27 and 28 under the judicially created doctrine of obviousness-type double patenting based on claims 18 and 19/18 of the 306 Application. Having traversed the objection and each of the rejections, the present application is in condition for allowance.

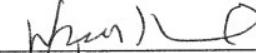
The present invention is new, non-obvious, and useful. Reconsideration and allowance of the claims are respectfully requested and application be passed to issue in due course.

Applicant includes a Petition for One-Month Extension of Time and payment of the fee. The Director is hereby authorized to charge Deposit Account No. 08-0219, under Order No. 0114089.120US2, the amount of \$65.00 for the one-month extension of time.

Applicant believes no fee is due with this Amendment. However, if there is a fee due, please charge Deposit Account No. 08-0219, under Order No.: 0114089.120US2 from which the undersigned is authorized to draw.

Respectfully submitted,

Dated: February 24, 2010

  
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